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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH A. SIMON,

Defendant and Appellant.

D049651

(Super. Ct. No. SCD200007)

APPEAL from a judgment of the Superior Court of San Diego County, David J. Danielsen, Judge. Affirmed.

Joseph A. Simon entered a negotiated guilty plea to selling cocaine base (Health & Saf. Code, § 11352, subd. (a)), and admitted a prior conviction of selling a controlled substance. (Pen. Code, § 1203.07, subd. (a)(11).) The court sentenced him to the stipulated three-year lower term in prison for selling a controlled substance and ordered him to pay a \$600 restitution fine. Simon contends the trial court erred in ordering him to pay the \$600 restitution fine.

FACTS

On July 5, 2006, Simon handed an undercover officer cocaine base in exchange for \$20.

DISCUSSION

Simon argues the trial court erred in imposing a \$600 restitution fine when that was not part of the plea agreement. He is mistaken. The plea agreement specifically advised Simon that the court could impose a restitution fine up to \$10,000. Simon signed the plea bargain form and initialed the advisement that the court could impose a restitution fine with a maximum of \$10,000. The advisement and waiver may be accomplished by the use of a form. (*In re Ibarra* (1983) 34 Cal.3d 277, 285.) In any case, Simon did not object to the \$600 restitution fine in the trial court. He cannot do so for the first time on appeal. (*People v. Scott* (1994) 9 Cal.4th 331, 356.)

DISPOSITION

The judgment is affirmed.

HALLER, Acting P. J.

WE CONCUR:

AARON, J.

IRION, J.